



**ENVIRONMENTAL PROTECTION AGENCY**

**10022-37-Region 1**

**Notice of Availability of Draft NPDES Small Wastewater Treatment Facility General Permits in Massachusetts and New Hampshire**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability of Draft NPDES General Permits MAG580000 and NHG580000.

**SUMMARY:** The Director of the Water Division, U.S. Environmental Protection Agency – Region 1 (EPA), is providing a Notice of Availability for the Draft National Pollutant Discharge Elimination System (NPDES) Small Wastewater Treatment Facility General Permit (WWTF GP) for discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. This Draft NPDES WWTF GP (“Draft General Permit”) establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 66 eligible facilities currently covered by either the existing General Permit or individual NPDES permits (see Attachment E of the Draft General Permit for a list of eligible WWTFs; 34 in Massachusetts and 32 in New Hampshire). The Draft General Permit is available on EPA Region 1’s website at <https://www.epa.gov/npdes-permits/region-1-draft-small-wastewater-treatment-facilities-general-permit>. The Fact Sheet for the Draft General Permit sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the Draft General Permit and is also available at this website.

**DATES:** Public comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Written comments on the Draft General Permit may be mailed to U.S. EPA Region 1, Water Division, Attn: Michael Cobb, 5 Post Office Square, Suite 100, Mail Code 06-1, Boston, Massachusetts 02109-3912, or sent via email to: [Cobb.Michael@epa.gov](mailto:Cobb.Michael@epa.gov). Due to

the COVID-19 National Emergency, if comments are submitted in hard copy form, please also email a copy to the EPA contact above.

**FOR FURTHER INFORMATION:** Additional information concerning the Draft General Permit may be obtained from Michael Cobb, U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Mail Code 06-1, Boston, MA 02109-3912; telephone: 617-918-1369; email: Cobb.Michael@epa.gov. Following U.S. Centers for Disease Control and Prevention (CDC) and U.S. Office of Personnel Management (OPM) guidance and specific state guidelines impacting our regional offices, EPA's workforce has been directed to telework to help prevent transmission of the coronavirus. While in this workforce telework status, there are practical limitations on the ability of Agency personnel to allow the public to review the administrative record in person at the EPA Boston office. However, any electronically available documents that are part of the administrative record can be requested from the EPA contact above.

**SUPPLEMENTARY INFORMATION:**

*Public Comment Information:* Interested persons may submit written comments on the Draft General Permit to EPA Region 1 at the address listed above. In reaching a final decision on this Draft General Permit, the Regional Administrator will respond to all significant comments and make responses available to the public on EPA Region 1's website. All comments must be postmarked or delivered by the close of the public comment period.

*General Information:* The Draft General Permit includes effluent limitations and requirements for eligible facilities based on technology and/or water quality considerations of the unique discharges from these facilities. The effluent limits established in the Draft General Permit ensure that the surface water quality standards of the receiving water(s) will be attained and/or maintained.

**Obtaining Authorization:** To obtain coverage under the General Permit, facilities meeting the eligibility requirements outlined in Part I of this General Permit may submit a notice of intent

(NOI) in accordance with Part V of this General Permit and 40 CFR § 122.28(b)(2)(i) & (ii).

The contents of the NOI shall include at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, the receiving stream(s) and be signed by the operator in accordance with the signatory requirements of 40 CFR § 122.22. Alternately, based on 40 CFR § 122.28(b)(2)(vi), the Director may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. EPA has determined that the facilities identified in Attachment E of the Draft General Permit all meet the eligibility requirements for coverage under the Draft General Permit and may be authorized to discharge under the General Permit by this type of notification.

**Other Legal Requirements: Endangered Species Act (ESA):** In accordance with the ESA, EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from WWTFs seeking coverage under the Draft General Permit. Concurrently with the public notice of the Draft General Permit, EPA has initiated an informal consultation with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) under ESA section 7, through the submission of a letter and biological assessment (BA) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats under NOAA Fisheries jurisdiction as a result of EPA's issuance of the Draft General Permit. In this document, EPA has made a preliminary determination that the proposed issuance of the Draft General Permit is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, or designated critical habitat for Atlantic sturgeon, as well as coastal protected whales and sea turtles and the North Atlantic right whale critical habitat. EPA has requested that NOAA Fisheries review this submittal and inform EPA whether it concurs with this preliminary finding.

In addition, EPA has initiated an informal consultation with the U.S. Fish and Wildlife Service (USFWS) under ESA section 7, through the submission of a letter and biological assessment (BA) summarizing the results of EPA's assessment of the potential effects to endangered and

threatened species and their critical habitats under USFWS jurisdiction as a result of EPA's issuance of the Draft General Permit. In this document, EPA has made a preliminary determination that the proposed issuance of the Draft General Permit is not likely to adversely affect the dwarf wedgemussel. EPA has requested that USFWS review this submittal and inform EPA whether it concurs with this preliminary finding. EPA has completed an informal consultation with USFWS regarding the threatened northern long-eared bat, as activities conducted as part of the WWTF GP are consistent with activities analyzed in the USFWS January 5, 2016, Programmatic Biological Opinion (PBO).

**Essential Fish Habitat (EFH):** Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq. (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes "may adversely impact any essential fish habitat." 16 U.S.C. § 1855(b). In the Fact Sheet accompanying the Draft General Permit, EPA notes that the general permit action minimizes adverse effects to aquatic organisms, including those with designated EFH in the receiving waters. EFH species associated with the receiving waters of facilities covered by the Draft General Permit may include Atlantic salmon as well as the life stages of a number of coastal EFH designated species, along with two habitat areas of particular concern. EPA has made the determination that additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act and has provided this determination to NOAA Fisheries for their review.

**National Historic Preservation Act (NHPA):** Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the Draft General Permit. Based on the nature and location of the discharges, EPA has determined that all facilities eligible for authorization under the Draft General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

**Coastal Zone Management Act (CZMA):** The CZMA, 16 U.S.C. 1451 *et seq.*, and its implementing regulations (15 CFR part 930) require a determination that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) is consistent with the CZMA. Concurrent with the public notice of the Draft General Permit, EPA will request that both the Executive Office of Environmental Affairs, MA CZM, and the Federal Consistency Officer, New Hampshire Coastal Program, provide a consistency concurrence that the proposed Draft General Permit is consistent with the MA and NH CZMPs.

**AUTHORITY:** This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Deborah Szaro,  
Acting Regional Administrator,  
EPA Region 1.

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